

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE: § **CASE NO. 18-51310**
BARBARA HAMPTON §
DEBTOR § **CHAPTER 13**
 §

OBJECTION TO EXTENSION OF STAY BY CIT BANK, N.A.

(Objects to DK# 4)

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, CIT BANK, N.A. (“CIT”), a secured creditor herein, and files its Objection to Extension of Stay and would respectfully show as follows:

SUMMARY

The case is not feasible, has not been filed in good faith, and the Motion should be denied.

- i) This is Debtor’s third (3rd) bankruptcy case filed in approximately two years.
- ii) In Debtor’s prior case, CIT filed proof of claim 1-1 reflecting arrears on the reverse mortgage for advanced taxes and insurance of \$17,100.81. Despite this notice, Debtor’s current plan lists no mortgage arrears. The incongruity of this is further exemplified as Debtor made only two payments of \$375 each in the prior case, or \$750 total. There should be no reason Debtor failed to disclose her arrears in this case.
- iii) Further, multiple filings by the Debtor in her prior case were struck by the Court for failing to follow proper procedure. The prior case in totality acted as nothing more than one long delay tactic to all creditors.
- iv) It appears Debtor is not able to fund these plans. The total debt and arrears have only increased steadily from case to case because Debtor is not paying taxes and insurance as required nor making plan payments. See

| Case No. | TOTAL DEBT | Arrears | Claim Number | Reason |
|-----------------|-------------------|----------------|---------------------|---|
| 16-50002 | \$129,372.76 | \$15,473.70 | 5-1 | Failure to make payments |
| 17-52117 | \$150,140.45 | \$17,100.81 | 1-1 | Failure to confirm plan & make payments |
| 18-51310 | \$161,706.10 | Pending | Pending | |

SHORT REVIEW

1. Debtor filed the instant case June 4, 2018. [DK# 1].
2. On the same date, Debtor filed her proposed Chapter 13 Plan [DK# 3] and her Motion to Extend Automatic Stay. [DK# 4].
3. The first proposed Chapter plan was dismissed by this Court for lack of compliance. [DK# 6].
4. In the prior case, multiple filings by the Debtor were repeatedly dismissed for failing to comply with rules and procedures. See Case No. 17-52117, [DK#’s 6, 7, 13, & 32].

| | | |
|------------|---------------------------|---|
| 09/06/2017 | <u>6</u> | Order Dismissing Document for Lack of Compliance (related document(s): <u>5</u> Motion for Extension of Stay Pursuant to 362(c)(3)(B) filed by Crosland Seth for Debtor Barbara Hampton (Attachments: # 1 Proposed Order)) (Order entered on 9/6/2017) (Gomez, Becky) |
| 09/06/2017 | <u>7</u> | Order Dismissing Document for Lack of Compliance (related document(s): <u>2</u> Chapter 13 Plan filed by Crosland Seth for Debtor Barbara Hampton.) (Order entered on 9/6/2017) (Gomez, Becky) |
| 09/13/2017 | <u>13</u> | Order Dismissing Document for Lack of Compliance (related document(s): <u>11</u> Notice of Hearing filed by Seth Crosland for Debtor Barbara Hampton. (Crosland, Seth) (Related Document(s): <u>8</u> Motion for Extension of Stay Pursuant to 362(c)(3)(B) filed by Crosland Seth for Debtor Barbara Hampton (Attachments: # 1 Service List # 2 Proposed Order))) (Order entered on 9/13/2017) (Gomez, Becky) |
| 01/08/2018 | <u>32</u> | Order Dismissing Document For Lack of Compliance (related document(s): <u>30</u> Amended Chapter 13 Plan filed by Seth Crosland for Debtor Barbara Hampton.) (Order entered on 1/8/2018) (Lornes, Sylvia) |

5. Debtor filed a corrected proposed plan in this case June 6, 2018. [DK# 7]. The proposed plan lists **no arrears** to CIT despite the fact Debtor just was dismissed from her prior case 17-52117 in which CIT had filed a proof of claim in that case reflecting \$17,100.81 arrears. See claim 1-1, p. 2, snapshot below:

| | | |
|---|----------|---|
| 9. Is all or part of the claim secured? | () No. | The claim is secured by a lien on property. |
| | (X) Yes. | Nature of property: (X) Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . () Motor vehicle () Other. Describe: <u>7811 Forest Path, Live Oak, TX 78233</u> |
| | | Basis for perfection: <u>Recorded Deed of Trust</u> Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) |
| | | Value of property: \$_____ |
| | | Amount of the claim that is secured: <u>\$150,140.45</u> |
| | | Amount of the claim that is unsecured: \$_____ (The sum the secured and unsecured amounts should match the amount in line 7.) |
| | | Amount necessary to cure any default as of the date of the petition: <u>\$17,100.81</u> |
| | | Annual Interest Rate (when case was filed) <u>5.56%</u> (X) Fixed () Variable |

6. The total debt on the loan has now increased to \$161,706.10 due to non-payment and Debtor's continued failure to pay taxes and insurance as required. The county appraisal value for the property is only \$143,780, meaning there is now substantial negative equity:

| Bexar CAD | | | | | | |
|--|---|---|-------------------------------------|------------------------|----------|-----------------|
| Property Search Results > 1 - 1 of 1 for Year 2018 | | | | | | |
| <small>Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a map.</small> | | | | | | |
| | <input checked="" type="radio"/> Property Address | <input type="radio"/> Legal Description | | | | |
| Property ID | Geographic ID | Type | Property Address | Owner Name | DBA Name | Appraised Value |
| <input type="checkbox"/> 300806 | 05049-376-0090 | Real | 7811 FOREST PATH LIVE OAK, TX 78233 | HAMPTON BARBARA BRANCH | | \$143,780 |

7. Given Debtor failed to disclose her arrears in the schedules and plan, failed to make payments in the prior two cases, and has no equity in the Property, she has failed to rebut the presumption under 11 U.S.C. § 362(c) that this case has been filed in bad faith to delay creditors, specifically CIT. Accordingly, CIT respectfully requests the Motion to Extend Stay be denied.

Wherefore, CIT BANK, N.A. respectfully prays the extension of the stay be denied and for such further and other relief as the Court may deem just.

Respectfully submitted:

/s/ Michael Weems

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ATTORNEY FOR CIT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above foregoing has been served upon the following parties by first class mail, postage prepaid, or by electronic mail on this 21ST day of June, 2018.

Debtor

Barbara Hampton
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Trustee

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/s/ Michael Weems

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